



Reprinted
February 5, 2002

HOUSE BILL No. 1027

DIGEST OF HB 1027 (Updated February 4, 2002 3:32 PM - DI 105)

Citations Affected: IC 34-10.

Synopsis: Pauper counsel in civil actions. Creates a presumption that a person is entitled to an attorney in a civil proceeding if the person earns not more than two hundred percent of the federal poverty guidelines. Requires reasonable attorney's fees and expenses to be paid from money appropriated to a court by a county fiscal body. Creates certain exceptions to the presumption of representation.

Effective: July 1, 2002.

Kuzman

January 8, 2002, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.
January 30, 2002, reported — Do Pass.
February 4, 2002, read second time, amended, ordered engrossed.

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HB 1027—LS 6408/DI 105+



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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1027

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-10-1-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) **This section**
3 **shall not be construed to prohibit a court from:**

4 (1) **participating in a pro bono legal services program or any**
5 **other program that provides legal services to litigants without**
6 **charge or at a reduced fee; or**

7 (2) **appointing counsel as provided by another statute.**

8 (b) If the court is satisfied that a person who makes an application
9 described in section 1 of this chapter does not have sufficient means to
10 prosecute or defend the action, the court: ~~shall:~~

11 (1) **shall** admit the applicant to prosecute or defend as an indigent
12 person; and

13 (2) **may** assign an attorney to defend or prosecute the cause **if the**
14 **court determines that proceeding without counsel may lead to**
15 **an erroneous decision.**

16 (c) **It is presumed that a person who earns not more than two**
17 **hundred percent (200%) of the federal poverty guidelines will be**

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1 assigned an attorney under subsection (b)(2). However, the
2 presumption is rebutted if the court finds that:

3 (1) the person has sufficient means available to employ
4 private counsel without imposing a financial hardship on the
5 person or the person's family;

6 (2) the person is voluntarily unemployed or underemployed;

7 (3) the person is impoverished due to incarceration;

8 (4) the person's claim or defense is patently frivolous; or

9 (5) the assigning of counsel would severely and adversely
10 affect any specific fiscal or other governmental interest.

11 (d) All officers required to prosecute or defend the action shall do
12 their duty in the case without taking any fee or reward from the
13 indigent person.

14 (e) The reasonable attorney's fees and expenses of an attorney
15 assigned to represent an applicant under this section shall be paid
16 from the money appropriated to the court by the county fiscal body
17 as part of the regular budgeting process.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1027, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

KUZMAN, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1027 be amended to read as follows:

Page 1, line 13, delete "." and insert **"if the court determines that proceeding without counsel may lead to an erroneous decision."**

Page 1, line 14, delete "is impoverished according" and insert **"earns not more than two hundred percent (200%) of the federal poverty guidelines"**.

Page 1, line 15, delete "to the federal poverty guidelines".

Page 1, line 17, delete "that the person:" and insert **"that:"**.

Page 2, line 1, after "(1)" insert **"the person"**.

Page 2, line 1, delete "financial resources" and insert **"sufficient means"**.

Page 2, line 4, after "(2)" insert **"the person"**.

Page 2, delete lines 5 through 6.

Page 2, line 7, delete "(4)" and insert **"(3) the person "**.

Page 2, line 7, delete "or".

Page 2, delete line 8, begin a new line block indented and insert:

"(4) the person's claim or defense is patently frivolous; or

(5) the assigning of counsel would severely and adversely affect any specific fiscal or other governmental interest."

Page 2, after line 11, begin a new paragraph and insert:

"(e) The reasonable attorney's fees and expenses of an attorney assigned to represent an applicant under this section shall be paid from the money appropriated to the court by the county fiscal body as part of the regular budgeting process."

(Reference is to HB 1027 as printed January 31, 2002.)

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